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U.S. Department of Homeland Security
20 Mass. Rm. A3042
Washington, DC 20529



U.S. Citizenship
and Immigration
Services



FILE:



Office: PHOENIX DISTRICT OFFICE Date: 007

IN RE:



APPLICATION: Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the
Immigration and Nationality Act (INA), 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:



INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

A handwritten signature in black ink, appearing to read "Robert P. Wiemann".

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the District Director, Phoenix. A subsequent appeal was dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion will be dismissed and the previous decisions of the district director and the AAO will be affirmed.

The record reflects that the applicant is a native and citizen of Panama who was found inadmissible to the United States pursuant to section 212(a)(6)(C)(i) of the Immigration and Nationality Act (INA, the Act), 8 U.S.C. § 1182(a)(6)(C)(i). The record reflects that the applicant is the spouse of a U.S. citizen. The applicant seeks a waiver of inadmissibility in order to return to the United States to reside with her spouse.

The district director found that the applicant had failed to establish extreme hardship to her U.S. citizen spouse and denied the application accordingly. *Decision of the District Director* (August 8, 2000). The decision of the district director was affirmed on appeal by the AAO. *Decision of the AAO* (April 16, 2003).

On motion, counsel contends that the AAO gave insufficient weight to the "specific hardship" faced by the applicant's husband and improperly presumed that the applicant's husband was aware that she had committed fraud. Counsel briefly restates the procedural history of the case. In support of the appeal, counsel re-submits a number of documents that are already present in the record. In addition, counsel submits letters attesting to the applicant's character, updated country conditions documents, and copies of utility bills. The intended significance of the additional documentation to these proceedings is not addressed by counsel; counsel does not contend that there has been any change in circumstances since the prior decisions on the instant application were rendered. The entire record was reviewed and considered in rendering this decision.

The regulations governing these proceedings, 8 C.F.R. § 103.5(a), state in pertinent part:

(2) *Requirements for motion to reopen.* A motion to reopen must state the new facts to be provided in the reopened proceeding and be supported by affidavits or other documentary evidence. . . .

(3) *Requirements for motion to reconsider.* A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or Service [now USCIS] policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision.

(4) *Processing motions in proceedings before the Service.* A motion that does not meet applicable requirements shall be dismissed. . . .

Counsel has failed to either state new facts relevant to these proceedings or cite any precedent decisions to establish that the prior AAO or district director's decisions were based on an incorrect application of law or policy or were incorrect based on the evidence of record at the time of the initial decision. Therefore, the motion will be dismissed pursuant to 8 C.F.R. § 103.5(a)(4) without further review of the application.

ORDER: The motion is dismissed and the previous decisions of the District Director and the AAO will be affirmed.